

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

MICHAEL EDDLETON
TX-1333774-R

§
§
§
§
§
§

COMPLAINT NOS. 09-062, 10-231

AGREED FINAL ORDER

On the 18 day of May 2012, the Texas Appraiser Licensing and Certification Board (the "Board") considered the matter of *Texas Appraiser Licensing and Certification Board vs. Michael Eddleton*, Complaint Nos. 09-062 and 10-231, concerning the real estate appraisal certification of Mr. Michael Eddleton, (the "Respondent"). The Board now makes the following findings of fact and conclusions of law and enters the Agreed Final Order (the "Order").

In order to avoid the costs of further litigation and resolve and conclude these matters, the Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein, except the Respondent specifically denies Findings of Fact numbers 14 and 15 and Conclusions of Law numbers 2 and 3 contained herein, and he agrees to the disciplinary action set out in the Order.. The Board makes the following findings of fact and conclusions of law and enters the Order in accordance with Texas Occupations Code Section 1103.458:

FINDINGS OF FACT

1. Respondent is a State of Texas certified residential real estate appraiser and has been licensed or certified by the Board during all times material to the complaints.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, Texas Occupations Code Chapter 1103 (the "Act"), the rules of the Board, 22 Texas Administrative Code Sections 153, 155, and 157 (the "Rules"), and the Uniform Standards of Professional Appraisal Practice ("USPAP"), in effect at the time of the appraisals.
3. On or about January 26, 2005, Respondent appraised real property located at 9901 Willers Way, Travis County, Austin, Texas (the "Willers Way Property").
4. On or about September 9, 2005, Respondent appraised real property located at 164 World of Tennis Square, Travis County, Austin, Texas (the "World of Tennis Property").
5. The Willers Way Property and the World of Tennis Property may be referred to collectively as the "Properties."
6. On or about January 27, 2005, Respondent documented the appraisal of the Willers Way Property in the form of a Uniform Residential Appraisal Report dated January 27, 2005 (the "Willers Way Appraisal Report").

7. On or about September 12, 2005, Respondent documented the appraisal of the World of Tennis Property in the form of a Uniform Residential Appraisal Report dated September 12, 2005 (the "World of Tennis Appraisal Report").

8. The Willers Way Appraisal Report and the World of Tennis Appraisal Report may be referred to collectively as the "Appraisal Reports."

9. On or about December 1, 2008, a staff initiated complaint was filed with the Board based on allegations the Respondent's Willers Way Appraisal Report did not comply with USPAP (the "Willers Way Complaint").

10. On or about March 23, 2010, a complaint was filed with the Board based on allegations the Respondent's World of Tennis Appraisal Report did not comply with USPAP (the "World of Tennis Complaint").

11. The Willers Way Complaint and the World of Tennis Complaint may be referred to collectively as the "Complaints."

12. On or about December 3, 2008, the Board, in accordance with the Administrative Procedure Act (the "APA"), Texas Government Code Annotated Chapter 2001, and the Act, notified Respondent of the nature of the accusations involved in the Willers Way Complaint and Respondent was afforded an opportunity to respond to the accusations in the Willers Way Complaint. Respondent's response to the Willers Way Complaint was received on January 9, 2009.

13. On or about March 23, 2010 and again on April 8, 2010, the Board, in accordance with the Administrative Procedure Act (the "APA"), Texas Government Code Annotated Chapter 2001, and the Act, notified Respondent of the nature of the accusations involved in the World of Tennis Complaint and Respondent was afforded an opportunity to respond to the accusations in the World of Tennis Complaint. Respondent's response to the World of Tennis Complaint was received on April 12, 2010.

14. Respondent violated Texas Occupations Code Section 1103.405, 22 Texas Administrative Code Sections 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to the version of USPAP in effect at the time of the Appraisal Report:

- a) Respondent failed to comply with the ethics and record-keeping provisions of the Ethics Rule;
- b) Respondent failed to adequately identify and report improvement(s) description;
- c) Respondent failed to consider and report easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances and/or other items of a similar nature;

- d) Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply & demand, and physical adaptability of the real estate and market area trends;
- e) Respondent failed to adequately collect, verify, analyze, and reconcile comparable sales data;
- f) Respondent failed to correctly employ recognized methods and techniques; and
- g) Respondent failed to comply with USPAP in rendering appraisal services that were not in a careless or negligent manner.

15. Respondent omitted material facts and made material misrepresentations in the Appraisal Reports of the Properties, as detailed above.

16. The parties entered into the Order in accordance with Texas Occupations Code Section 1103.458.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Act. Tex. Occ. Code §§ 1103.451-1103.5535.

2. Respondent violated the following provisions of USPAP as prohibited by Texas Occupations Code Section 1103.405 and 22 Texas Administrative Code Sections 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (ethics and record keeping); USPAP Standards Rules: 1-2(e)(i) & 2-2(iii), 1-2(e)(iv) & 2-2(ix), 1-3(b) & 2-2(x), 1-3(a) & 2-2(ix), 1-4(a) & 2-2(ix), 1-1(a) & 1-4(a), 2-2(xi), 1-5(a) and 2-2(ix), 1-6(a) and (b) and 2-2(ix), 1-1(a) and 1-4(c), 1-1(b), 1-1(c), 2-1(a), and 2-1(b).

3. Respondent violated 22 Texas Administrative Code Section 153.20(a)(9) by making material misrepresentations and omitting material facts.

Based on the above Findings of Fact and Conclusions of Law, the Board **ORDERS** that the Respondent shall:

- a) Attend and complete a minimum, 15 classroom-hour course in USPAP;
- b) Attend and complete a minimum, 7 classroom-hour course in *Staying out of Trouble*, or, in the alternative, complete 5 hours of mentorship with a Board approved mentor, and submit an affidavit of mentorship as proof of completion;
- c) Independently of (b) infra, complete 5 hours of mentorship with a Board approved mentor, and submit an affidavit of mentorship as proof of completion; and,

- d) Comply with all future provisions of the Act, the Rules and USPAP, or be subject to further disciplinary action.

ALL CLASSES required by the Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of the Order (the "Order Deadline"). Documentation of attendance and successful completion of the educational requirements of the Order shall be delivered to the Board on or before the Order Deadline. None of the classes or seminars required by the Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for certification. Respondent is solely responsible for locating and scheduling classes to timely satisfy the terms of the Order.

Failure to comply with the terms of the Order **WITHIN THE ORDER DEADLINE** shall result in **IMMEDIATE REVOCATION** of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has failed to comply with the terms of the Order.

ANY SUCH REVOCATION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE APA, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such revocation by certified mail, return receipt requested, to the last known address as provided to the Board.

Respondent, by signing the Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of the Order. Information about the Order is subject to public information requests and notice of the Order will be published on the Board's web site.

THE DATE OF THE ORDER shall be the date as executed by the Chairperson of the Board. The Chairperson has been delegated the authority to sign the Order by Board vote.

Signed this 26 day of March 2012.

Michael Eddleton
MICHAEL EDDLETON, RESPONDENT

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 26 day of March 2012, by MICHAEL EDDLETON, RESPONDENT, to certify which, witness my hand and official seal.

Melissa Goodin
Notary Public Signature

Melissa Goodin
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division on the 26 day of MARCH 2012.



Mark J. Mrnak, Director of Standards and Enforcement Services
Texas Appraiser Licensing and Certification Board

Signed by the Commissioner of the Board on the ____ day of _____ 2012.

Douglas E. Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board


Approved by the Board and Signed on the ____ day of _____ 2012.

Luis De La Garza, Chairperson
Texas Appraiser Licensing and Certification Board

Signed by the Standards and Enforcement Services Division on the ____ day of _____
2012.


Mark J. Mrnak, Director of Standards and Enforcement Services
Texas Appraiser Licensing and Certification Board

Signed by the Commissioner of the Board on the 18 day of May 2012.



Douglas E. Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed on the 18 day of May 2012.



Luis De La Garza, Chairperson
Texas Appraiser Licensing and Certification Board